

REMARKS

Claims 1 to 18; 20; and 23 are canceled.

Claims 19; 21; and 22 have been amended.

New claims 24 and 25 are presented for prosecution.

Claims 19; 21; 22; 24; and 25 remain pending in the application. Of these, claim 19 is the sole independent system claim. Claims 21; 24; and 25 are dependent system claims. Claim 22 is a dependent method claim, relating to a method of using the system defined in independent system claim 19.

Claim 19 stands rejected under 35 U.S.C. § 112 as being indefinite. Claim 19 has been amended to define with definiteness a system comprising a cephalad prosthesis and a caudal prosthesis. Each prosthesis is structurally defined with definiteness as including a fixation area and an artificial facet joint structure. The articulation of the facet joint structures is defined with definiteness. Applicant respectfully submits that the rejection under Section 112 has been overcome.

The Examiner's attention is directed to an Information Disclosure Statement that was recently filed in this case by mailing on November 17, 2003. A copy of a related case -- now Reiley US 6,610,091, which the Examiner has previously allowed after consideration of both Fitz US 5,571,191 and Martin US 6,132,464 -- accompanied the Statement. The instant case claims the benefit of the filing date of Reiley US 6,610,091. In amending the claims in the instant case, Applicant has attempted to maintain terminology that is consistent with the terminology of the claims in Reiley US 6,610,091, with which the Examiner is familiar.

Claims 19; 21; and 22 stand rejected under 35 U.S.C. §102 based upon Fitz (US 5,571,191) or Martin (US 6,132,464). Applicant respectfully traverses these rejections. Neither Fitz nor Martin teach or suggest a prosthesis system comprising a cephalad prosthesis that is installed after the removal of at least a portion of the cephalad portion of the natural facet joint and at least a portion of a lamina from a superior vertebral body -- and which articulates with a caudal prosthesis that is installed after the removal of at least a portion of the cephalad portion of the natural facet joint from an inferior vertebral body. In Fitz, no portion of either the cephalad or caudal portions of the natural facet joint nor any portion of a lamina of a vertebral body are removed. Indeed, Fitz requires the presence of the natural articular processes to support his prostheses, which resurface

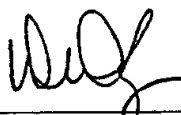
(but do not remove) the natural articular processes. Martin, too, teaches the use of a prosthesis to resurface (but not remove) a natural articular process, and no where teaches or suggests the removal of any portion of a lamina from a vertebral body. Neither Fitz nor Martin contemplate or appreciate the attendant benefits of the removal of these anatomic elements, e.g., alleviation of pain and the ability to create an artificial facet joint that is not constrained by preexisting articular configurations.

The removal of a natural articular process (cephalad portion) and lamina of a superior vertebral body, as defined in claim 19, is disclosed in Applicant's Specification, e.g., on page 25, lines 10 to 14. The removal of the natural articular process (caudal portion) of an inferior vertebral body, as defined in claim 19, is disclosed in Applicant's Specification, e.g., on page 18, lines 11 to 13.

New dependent system claims 24 and 25 add the features of fixation at or near a pedicle. These features are disclosed in Applicant's Specification, e.g., on page 13, lines 24 to 28, and page 22, lines 33 to 35.

Applicant believes that claims 19; 21; 22; 24; and 25 are in condition for allowance.

Respectfully Submitted,

By 
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